



State of New Jersey

PHILIP D. MURPHY
Governor

DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY DEVELOPMENT
PO BOX 716

CAROLE JOHNSON
Commissioner

SHEILA Y. OLIVER
Lt. Governor

TRENTON, NJ 08625-0716

NATASHA JOHNSON
Assistant Commissioner

The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW 14231-19 S.R.

AGENCY DKT. NO. C322134007 (ESSEX COUNTY DIVISION OF WELFARE)

Petitioner challenges the Respondent Agency's notice demanding that she repay allegedly overissued Supplemental Nutrition Assistance Program ("SNAP") benefits. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law ("OAL") for a hearing. On October 22, 2019, the Honorable Mumtaz Bari-Brown, Administrative Law Judge ("ALJ"), held a plenary hearing, took testimony, and admitted documents. On October 25, 2019, counsel for Petitioner moved for a stay of the recoupment of the overpayment. The Respondent Agency opposed Petitioner's motion. On November 4, 2019, the ALJ issued an Order granting Petitioner's motion to stay the recoupment of the overissued SNAP benefits, pending the Final Agency Decision in this matter. On November 12, 2019, Petitioner's counsel submitted a post-hearing brief, and the record closed on that day. On November 21, 2019, the ALJ issued an Initial Decision, reversing the Agency's determination.

No Exceptions to the Initial Decision were received.

As the Director of the Division of Family Development ("DFD"), Department of Human Services, I have reviewed the record in this matter and I hereby ADOPT the Initial Decision and REVERSE the Agency determination.

Here, the record reflects that in January, 2019, as part of the recertification process for continued SNAP benefits, Petitioner reported that her income was comprised of \$802 per month in Supplemental Security Income ("SSI") benefits for one of her children, and \$200 per month in child support. See Initial Decision at 5. In February, 2019, the Agency received a Wage Verification Form indicating that Petitioner, as of October, 2018, lived in the state of Wisconsin, was employed by a company based in the state of Utah, and had earned income. See Initial Decision at 2, 5; see also Exhibit R-3. Based upon the information in the Wage Verification Form, the Agency determined that Petitioner received SNAP benefits without reporting her employment income, and thereafter, notified her that her SNAP benefits would be terminated, effective April 1, 2019. See Initial Decision at 2; see also Exhibit R-2, and N.J.A.C. 10:87-5.2, -5.4(a)(1). On June 18, 2019, the Agency sent Petitioner a notice seeking to recoup \$1,249 in SNAP benefits that were paid for the months of December, 2018, through January, 2019, and March, 2019. See Initial Decision at 6; see also Exhibit J-4, and N.J.A.C. 10:87-11.20(e)(2).

The ALJ found that Petitioner has never resided in Wisconsin, that she has not worked since 2012, and that she is a victim of identity theft. See Initial Decision at 3, 5; see also Exhibits P-1, P-5. The ALJ also found that someone other than Petitioner was reported to have been employed and received earnings. See Initial Decision at 4; see also Exhibits P-2, P-3. Based upon the documentary and testimonial evidence presented, the ALJ concluded that the Agency's notice seeking to recoup SNAP benefits from Petitioner was wrongfully based upon earned income from some person who stole



Petitioner's identity, and reversed the Agency's determination to recoup the \$1,249 overissuance of SNAP benefits. See Initial Decision at 8; see also Exhibit J-4, and N.J.A.C. 10:87-11.20(e)(2). I agree.

The ALJ ordered the Agency to recalculate Petitioner's SNAP benefits, excluding any reported earned income prior to 2012, including the earned income listed in the February, 2019, Wage Verification Form, and to issue SNAP benefits to Petitioner, retroactive to April 1, 2019. See Initial Decision at 8; see also Exhibits P-2, R-3, and N.J.A.C. 10:87-8.18. While I agree with the ALJ, that Petitioner is entitled to retroactive SNAP benefits to April 1, 2019, I find that, in accordance with applicable regulatory authority, Petitioner cannot receive SNAP benefits beyond her certification period. I hereby take official notice that the records of this office show that Petitioner's certification period ended on November 30, 2019. See N.J.A.C. 1:1-15.2(a) and N.J.R.E. 201(b)(4). Therefore, Petitioner may receive retroactive SNAP benefits from April 1, 2019, to November 30, 2019. To receive SNAP benefits from December 1, 2019, forward, Petitioner must first go through the recertification application process. See N.J.A.C. 10:87-9.1(a). In light of the findings made in this case, I direct the Agency to assist Petitioner in reapplying for SNAP benefits, on an expedited basis, and provided that Petitioner is again determined eligible for SNAP benefits, that the Agency then provide Petitioner with retroactive SNAP benefits from December 1, 2019. See N.J.A.C. 10:87-8.18.

Accordingly, the Initial Decision is hereby ADOPTED, and the Agency's determination is REVERSED.

Officially approved final version.

Natasha Johnson
Assistant Commissioner

DEC 25 2019

